IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 454 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/01/2003 in WP NO : 16002 OF 2000 on the file of the High Court.)

Between:

1 APSRTC rep.by its Managing Director, Mushirabad, Hyderabad.
2 APSRTC rep.by its Executive Director, Cuddapah.
3 APSRTC rep.by its Works Manager (ZWS), Cuddapah.

..... APPELLANTS

AND

1 G.Venkata Swamy, S/o G.Venkata Ramanappa, R/o Cuddapah.
2 Sri P.Krishna Reddy, Leading Hand E.65526, APSRTC, Regional Workshop, Cuddapah.
3 Sri D.Mastan Vali, Leading hand E.65881, APSRTC, Regional Workshop, Cuddapah.
4 Sri A.Ram Gopal, S/o Ramaswamy, Leading Hand E.67439, APSRTC Zonal Workshop, Cuddapah.

.....RESPONDENTS

For the Appellants:MR.P.VINAYAKA SWAMY

For the Respondents: MR.A.K.JAYAPRAKASH RAO

The Court Made the Following :

ORAL JUDGMENT: (per GB. J.)

The Writ Appeal is filed by the APSRTC challenging the order passed by the learned single Judge in Writ Petition No.16002 of 2000, dated 18.3.2003.

2. The 1st respondent filed the above Writ Petition seeking direction to consider the case of the petitioner for promotion to the post of Leading Hand on 3.5.1989 and also on 24.7.1989. The said Writ Petition was heard by the learned single Judge and issued directions to the respondents therein to consider the case of the petitioner for promotion to the post of Leading Hand (AC Electrician), which post had arisen consequent on the promotion of Leading Hand (AC Electrician), Mr.S.Guruswamy. The said order came to be challenged in this Writ Appeal by the APSRTC.

3. The learned Standing Counsel for the appellants submit that the order passed by the learned single Judge is not sustainable inasmuch as the post of Leading Hand (AC Electrician) and Leading Hand (DC Electrician) were merged together and therefore he has to take seniority in the combined seniority list and hence the order is liable to be set aside.

4. We have also heard the learned counsel for 1st respondent.

5. The issue raised by the learned Standing Counsel was amply discussed by the learned single Judge in paras 11 and 12, which are extracted below:

"It is the case of the petitioner that his case for

promotion ought to have been considered with reference to the vacancy that arose in the year 1989 as a result of the promotion of Mr.S.Guruswamy, who is an AC Electrician holding the post of Leading Hand. According to the petitioner, as per the principle laid down by this Court in W.P.No.4190 of 1998, the post of Leading Hand (AC Electrician) has to be filled up by promoting AC Electrician only and in fact on that basis only the promotion given to the petitioner in the year 1997 was set aside and the Corporation was directed to promote the 6th respondent. If the said principle has to be applied, then the post that was vacated by earlier Leading Hand (AC Electrician) has to be filled up by another AC Electrician only and none else. In the normal circumstances, this Court would not interfere with the promotions that were effected in the year 1989 when they are assailed long after such promotions took place. But in view of the peculiar facts and circumstances of this case, inasmuch as when a vacancy of Leading Hand (AC Electrician), which was to be filled up by an AC Electrician, was admittedly filled up by a DC Electrician, this Court is inclined to interfere with the said promotion. Further, as the circular was holding the field, the petitioner was not aggrieved against the said action of the respondent-Corporation. But he is aggrieved when the promotion given to him in the year 1997 was set aside by this Court holding that the vacancy of Leading Hand (DC Electrician) has to be filled up by another DC Electrician only. Further, it is the case of the Corporation that there are no vacancies and such vacancies are also not likely to arise in the near future or atleast till the retirement of the petitioner, as all the persons holding the posts of Leading Hand are younger to the petitioner. In addition, as per the ratio laid down by this Court in the Writ Petition filed by the 6th respondent when the promotion of the petitioner was set aside, even if a vacancy arises, that would be as a result of the promotion of Leading Hand (DC

Electrician) and it is necessarily to be filled up by another DC Electrician only. Therefore, it would result in total denial of promotion of the petitioner to the post of leading Hand from out of the AC Electricians. The result would be the denial not only to the petitioner but also to all the AC Electricians forever. Under these circumstances, this Court is of the considered opinion that the Corporation should implement the orders passed by the learned single Judge, in W.P.No.4190 of 1998, dated 2.7.1998 which was affirmed in the Writ Appeal even with reference to the earlier post of Leading Hand (AC Electrician) which was vacated by promoting only another AC Electrician.

In the result, the Writ Petition is allowed and the respondent-Corporation is directed to review the promotions that were already effected by applying the principle of filling up the post of Leading Hand (AC Electrician) with AC Electricians only while filling up the post of Leading Hand (DC Electrician) with DC Electricians only, and consider the case of the petitioner for promotion to the post of Leading Hand (AC Electrician) which had arisen as a result of the promotion of Leading Hand (AC Electrician), Mr.S.Guruswamy. This exercise should be completed within a period of three months from the date of receipt of a copy of this order. No costs".

6. In view of the above categorical finding and inasmuch as only a direction was given to consider the case of the 1st respondent for promotion, we are not inclined to interfere with the order of the learned single Judge. We find no merits in the Writ Appeal.

7. In the result, the Writ Appeal is dismissed. No costs.

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(G.BIKSHAPATHY, J.)

28th June, 2004.

(B.SESHASAYANA REDDY, J.)

SSR

Copies to:

1. The Hon'ble Sri Justice G.Bikshapathy (for His Lordship's kind perusal).
2. APSRTC rep.by its Managing Director, Mushirabad, Hyderabad.
3 APSRTC rep.by its Executive Director, Cuddapah.
4 APSRTC rep.by its Works Manager (ZWS), Cuddapah.
5. 2 CD Copies.